

FINDING OF EMERGENCY

The Secretary of the Department of Food and Agriculture finds that an emergency exists, and that the foregoing regulation, or amendment to the regulation, is necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

Specific Facts Showing the Need for Immediate Action

Mexican fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Many kinds of fruit, including apple, apricot, avocado, citrus (except lemon and sour lime), guava, nectarine, peach, pear, plum, and pomegranate, and the fruiting bodies of some wild and ornamental plants are known to be hosts or possible hosts of the Mexican fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms that cause tissue breakdown. Damaged fruit is generally unfit for human consumption. Movement of hosts infested with the larvae of the fly can artificially spread the fly.

Adult Mexican fruit flies were trapped in the County of Los Angeles. On October 9, 2002, a male Mexican fruit fly was taken from a trap in the Monterey Park area of Los Angeles County. On October 12, 2002, a male Mexican fruit fly was taken from a trap in the Monterey Park area of Los Angeles County. On October 23, 2002, two male Mexican fruit flies were taken from a trap in the Monterey Park area of Los Angeles County. On October 24, 2002, one larva was recovered from backyard sapote fruit located in the Monterey Park area of Los Angeles County. The detection of numerous adult male Mexican fruit flies and a larva was indicative of an incipient infestation of Mexican fruit fly in the Monterey Park area of Los Angeles County.

If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to increased pesticide use, decreased production of marketable fruit, and loss of markets if the United States Department of Agriculture or other states or countries enact quarantine against California products which can host and carry the fly. It is estimated that the establishment of Mexican fruit fly could cost an additional \$124 million per year in increased production costs. Mexican fruit fly has been

introduced into California a number of times, through the movement of prohibited host fruits and vegetables into the State, and has always been successfully eradicated.

The South Pasadena area merged with the Monterey Park area when the buffer zone extending approximately 4-1/2 miles in each direction from its epicenter was drawn. Eradication has not been declared for the South Pasadena area; therefore, it is necessary to continue to regulate the South Pasadena area. The new boundary line was drawn jointly by the United States Department of Agriculture, the California Department of Agriculture, and the Los Angeles County Agricultural Commissioner and was considered the minimum area around the infested properties that should be regulated to prevent artificial spread of Mexican fruit fly to noninfested areas.

This proposed amendment of Section 3417(b) will remove approximately 49 square miles surrounding the infestation in the Monterey Park area of Los Angeles County as the area under quarantine for Mexican fruit fly. The fly was eradicated from this area on June 17, 2003; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It is necessary to amend this regulation on an emergency basis to remove the quarantine on the Monterey Park area and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Host crops are being or will be harvested in this area soon. If the restrictions were continued, those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Therefore, it is necessary to amend this regulation to remove the regulated area in the Monterey Park area of Los Angeles County as an emergency action.

Authority and Reference Citations

Section 3417(b):

Authority: Sections 407, 5301, 5302, and 5322, Food and Agricultural Code.

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Informative Digest

Existing law provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to protect the agricultural industry of California from the spread of pests. The Secretary may make and enforce such regulations as he deems necessary to prevent any plant or thing which is, or is liable to be, infested by or which might act as a carrier of any pest, from passing over any quarantine boundary which is established.

Section 3417. Mexican Fruit Fly Interior Quarantine.

This amendment will remove approximately 49 square miles in the Monterey Park area of Los Angeles County to the quarantine area for Mexican fruit fly. The effect of the amendment is to remove the authority for the State to regulate movement of hosts and possible carriers of Mexican fruit fly within and from the Monterey Park area, because it is no longer necessary to protect California's agricultural industry.

Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3417 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment will remove a portion of Los Angeles County that was in the area under quarantine; therefore, enforcement will no longer be necessary. There are no mandated costs associated with the removal of the Monterey Park area from the regulation.

Cost Estimate

The Department has also determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.